

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF WISCONSIN  
GREEN BAY DIVISION**

UNITED STATES OF AMERICA and  
THE STATE OF WISCONSIN,

Plaintiffs,

v.

NCR CORPORATION,  
APPLETON PAPERS INC.,  
BROWN COUNTY,  
CITY OF APPLETON,  
CITY OF GREEN BAY,  
CBC COATING, INC.,  
GEORGIA-PACIFIC CONSUMER PRODUCTS LP,  
KIMBERLY-CLARK CORPORATION,  
MENASHA CORP.,  
NEENAH-MENASHA SEWERAGE COMMISSION,  
NEWPAGE WISCONSIN SYSTEMS, INC.,  
P.H. GLATFELTER CO.,  
U.S. PAPER MILLS CORP., and  
WTM I COMPANY,

Defendants.

Civil Action No. 10-C-910

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**SEVENTH CIRCUIT RULE 3(c)(1) DOCKETING STATEMENT OF  
DEFENDANT NCR CORPORATION**

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Defendant NCR Corporation (“NCR”), by its undersigned counsel, respectfully submits this Docketing Statement pursuant to Circuit Rule 3(c)(1) of the United States Court of Appeals for the Seventh Circuit.

## **I. DISTRICT COURT JURISDICTION**

The United States District Court for the Eastern District of Wisconsin has jurisdiction over the subject matter of this action, and the parties hereto, pursuant to Section 113(b) and (e) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. §§ 9606 and 9607, as amended by the Superfund Amendments and Reauthorization Act of 1986 (“CERCLA”), 42 U.S.C. §§ 9613(b) and (e), and 28 U.S.C. §§ 1331 and 1345.

## **II. APPELLATE COURT JURISDICTION**

28 U.S.C. § 1292(a)(1) confers jurisdiction on the United States Court of Appeals for the Seventh Circuit of this appeal of the Decision and Order Granting Plaintiffs’ Motion for Preliminary Injunction, entered by the United States District Court for the Eastern District of Wisconsin – Green Bay Division on April 27, 2012.

The Notice of Appeal of Defendant NCR Corporation was filed with the United States District Court for the Eastern District of Wisconsin – Green Bay Division on April 30, 2012. No motions claimed to toll the time within which to appeal have been filed. This case is not a direct appeal from the decision of a magistrate judge.

## **III. THE ORDER GRANTING PLAINTIFFS’ MOTION FOR PRELIMINARY INJUNCTION IS IMMEDIATELY APPEALABLE.**

Under 28 U.S.C. § 1292 (a)(1), a district court’s issuance of a preliminary injunction is an immediately appealable interlocutory order. *See generally AlliedSignal, Inc. v. B.F. Goodrich Co.*, 183 F.3d 568, 572 (7th Cir. 1999) (“Section 1292(a)(1) makes the district court’s issuance of a preliminary injunction an immediately appealable interlocutory order”); *Timberlake v. Oppenheimer & Co.*, 729 F.2d 515, 518 (7th Cir. 1984) (“28 U.S.C. § 1292(a)(1) authorizes the immediate appeal of orders granting or denying preliminary injunctions”).

**IV. PRIOR OR RELATED APPELLATE PROCEEDINGS**

There have been no prior or related appellate proceedings in this case.

**V. ADDITIONAL REQUIREMENTS OF CIRCUIT RULE 3(C)(1)**

This is a civil case that does not involve any criminal convictions. 28 U.S.C. § 1915(g) is inapplicable.

None of the parties to the litigation appears in an official capacity.

This case does not involve a collateral attack on a criminal conviction.

Respectfully submitted,

NCR CORPORATION

/s/ Darin P. McAtee

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Dated: April 30, 2012

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\* For purposes of this appeal, Mr. McAtee is counsel of record for NCR.